

The Salisbury Planning Board held its regular meeting Tuesday, August 22, 2006, in the City Council Chamber of the Salisbury City Hall at 4 p.m. with the following being present and absent:

PRESENT: Dr. Mark Beymer, Robert Cockerl, Nathan Chambers, Tommy Hairston, Lou Manning, Brian Miller, Sandy Reitz, Albert Stout, and Diane Young

ABSENT: Dr. Kelly Vance, Valarie Stewart, and Price Wagoner

STAFF: Janet Gapen, Dan Mikkelson, Preston Mitchell, Diana Moghrabi, and Joe Morris

Chairman Brian Miller called the meeting to order and Dr. Mark Beymer offered the invocation. The minutes of the August 8, 2006, meeting were approved as published.

## **OLD BUSINESS**

### **A. Subdivision**

#### **S-10-06 Subdivision of Leatherman Property**

Dan Mikkelson reported that Planning Board Committee 2 met August 15, at 7:30 a.m. at the Rowan Regional Medical Center cafeteria to receive advice from the City Attorney concerning subdivision plat S-10-06.

There was not a quorum of Committee 2 present, so Planning Board Chair Brian Miller led a discussion of those present. Technically, there could be no recommendation from the committee; however, there is a resulting recommendation from City Staff, supported by the two Planning Board members who were in attendance.

City Attorney Rivers Lawther concurred with the Institute of Government's legal advice of August 8. He clarified that, if the City elects to work with the developer to acquire right-of-way through eminent domain and/or make improvements to "Dodd Street," the decision should be made by the City Council, not the staff or the Planning Board.

Neighbors shared the following comments:

- They are concerned about storm water runoff.
- They would like a natural (undisturbed) buffer. Preston Mitchell explained standard buffer requirements.
- They appreciate efforts not to connect to Rosemont Street.

Brian Miller suggested the Planning Board uphold their previous recommendation of a 40' minimum right-of-way for Dodd Street, similar to the conditional approval for plat S-06-05. The developer would appeal to City Council, asking them to consider one of the following:

- Work with the developer to acquire right-of-way and improve Dodd Street, or
- Accept the developer's proposal for a 20' roadway as an acceptable public street. (For this option, the fire apparatus access route would become necessary to avoid a Fire Code issue, and the developer suggests that valley-gutter be used to make it easier for a vehicle to drive over the curb if a vehicle conflict should occur.)

There was general consensus that this was a reasonable process that left the final decision to the discretion of the City Council.

After reviewing the situation with legal counsel and participating in the public meeting of August 15, staff recommends that Planning Board grant conditional approval to preliminary plat S-10-06 with the following conditions:

1. The proposed connection to South Main Street shall include improvements to Dodd Street to meet current City street standards, except that a 40-foot (minimum) public right-of-way be allowed with sidewalk on only one side of the street.
2. A driveway permit shall be obtained from NC DOT for the connection to South Main Street.
3. In accordance with section 5.02.14.a of the Subdivision Ordinance, the property lines between lots one and two, four and five "shall be substantially at right angles or radial to street lines."
4. Modification of standards is granted to allow the cul-de-sac as designed with a length in excess of 600 feet.
5. Preliminary plat S-06-05 shall become null and void upon approval of preliminary plat S-10-06.

**Brian Miller** recapped the highlights of this subdivision. In a "taking" of the right-of-way, the owner would be compensated. Property values should improve as a result of the taking. The developer has come with a substitute plan that removes access to the one public street that he had (Rosemont). The developer is willing to shoulder the cost of the improvements to the street.

**Albert Stout** said that he has a problem with requiring the developer to install the street when he does not have ownership of the necessary right-of-way property. The City Attorney said in the meeting that it was a matter of semantics. He did not see it as a requirement that the developer improve someone else's property; he sees it that the property being proposed for development does not have access to a public street, which is one of the requirements for a subdivision. The ordinance is clear that if someone is going to create new lots they have to have frontage on a public street. In order to create new lots, the standards require the public street. City Council has

the authority to accept a street and it will become public and would not necessarily have to meet the city standards. The property owner can use Dodd Street as access and the property can be developed as a single lot.

If Planning Board grants approval to this request it is the final approval. If it is a conditional approval that the developer thinks it is burdensome, the developer then has a right to appeal to City Council.

Sandy Reitz said if this recommendation is forward with conditional approval the Board has acted consistently.

**Glenn Ketner, Jr.**, attorney for Ketner and Dees, 121 E. Kerr Street, stated that the memo of August 8, which was submitted to Planning Board members, was the same memo (under new date and address) that had been previously submitted to City Council. It was not his firm's intent to provide last-minute information, and he was surprised that City staff members were not familiar with the previous correspondence. He talked about the possibilities of accepting Dodd Street as a public street and various scenarios. Planning Board has the authority to approve this plat and make the Rosemont issue go away.

Dr. Mark Beymer made a MOTION to approve S-10-06 with the following conditions:

1. The proposed connection to South Main Street shall include improvements to Dodd Street to meet current City street standards, except that a 40-foot (minimum) public right-of-way be allowed with sidewalk on only one side of the street.
2. A driveway permit shall be obtained from NC DOT for the connection to South Main Street.
3. In accordance with section 5.02.14.a of the Subdivision Ordinance, the property lines between lots one and two, four and five "shall be substantially at right angles or radial to street lines."
4. Modification of standards is granted to allow the cul-de-sac as designed with a length in excess of 600 feet.
5. Preliminary plat S-06-05 shall become null and void upon approval of preliminary plat S-10-06.

Lou Manning seconded the motion and it won by a vote of 7-2. AYE: Tommy Hairston, Diane Young, Mark Beymer, Lou Manning, Brian Miller, Sandy Reitz, and Robert Cockerl. NAY: Albert Stout and Nathan Chambers.

Mark Beymer thanked the chair and staff for their work; it was an earnest debate. This case will be placed on the September 5 Council Agenda.

## COMMITTEES

**Committee 1** reviewing the proposed Sidewalk Prioritization Plan met Friday morning. Staff provided more information on the quarter-mile radius buffers that were pulled from all of the linear data and point data on the map that was created by the committee. This covers areas like the library, grocery stores, health clubs, existing and planned commercial nodes. The scores were matched up with the buffers. The committee is now prepared to draft the sidewalk prioritization plan. The Planning Board will receive that draft at the first meeting in September. Action will be taken at the second Planning Board meeting in September and to City Council in October. Preston will check to see if a courtesy hearing is required.

The committee will schedule a meeting through the secretary.

## OTHER BUSINESS

### *Staff*

Preston Mitchell made clarifications concerning the August 8 zoning request–Zoning Map Amendment, Z-09-06, John Mauney, Fowler Agency, Inc. Planning Board had voted against that petition. Staff had used incorrect data in the presentation and recommendation, believing that the property was zoned County CBI. Instead it is zoned County 85-ED-3 (“Corporate Park”) which is Corporate Park, High-Tech Industry / Medical. Because the recommendation was based on the M-2 zoning, this information would not change any recommendation. There is no reason to have another courtesy hearing.

He discussed how buffers are determined and how notifications are sent to the public. He also explained his professional definition of a viable neighborhood. He did not mean to offend or insinuate that a community did not exist in that area.

There being no further business to come before the Planning Board, the meeting was adjourned at 5:00 p.m.

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Brian Miller, Chairman

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Lou Manning, Vice Chairman

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Secretary, Diana Moghrabi